

13.1.2 IIROC Rules Notice – Notice of Approval – Client Relationship Model – Implementation

IIROC RULES NOTICE

NOTICE OF APPROVAL

CLIENT RELATIONSHIP MODEL – IMPLEMENTATION

12-0107
March 26, 2012

Introduction

This Rules Notice provides notice of approval by the applicable securities regulatory authorities of amendments to the IIROC Dealer Member Rules to adopt the core elements of Client Relationship Model (CRM) Project for investment dealers. The approved amendments address four regulatory objectives and copies are enclosed as follows:

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|----|---|--------------|
| 1. | Relationship disclosure - | Attachment A |
| 2. | Conflicts of interest management/disclosure - | Attachment B |
| 3. | Suitability assessment - | Attachment C |
| 4. | Account performance reporting - | Attachment D |

This Rules Notice also announces the implementation of three of the above four sets of CRM-related amendments in accordance with the implementation schedule enclosed as Attachment E. Implementation of the fourth set of CRM-related amendments relating to account performance reporting has been deferred in order to comply with a Canadian Securities Administrators (CSA) approval condition that application of the approved account performance reporting requirements be suspended. It is anticipated that IIROC's performance reporting proposals will be implemented once the CSA's performance reporting requirements, currently under development, have been finalized, and IIROC has made any necessary changes to harmonize with the final CSA performance reporting requirements.

The remainder of this Rules Notice provides a summary of the nature and the purpose of the three sets of CRM-related amendments for which implementation has been announced.

Summary of the nature and purpose of the amendments

Relationship disclosure – New Dealer Member Rule 3500

Pursuant to the requirements in new IIROC Dealer Member Rule 3500, every Dealer Member will provide its retail clients with the following information regarding the relationship they are entering into with the client:

- a description of the types of products and services offered by the Dealer Member;
- a description of the account relationship to which the client has consented;
- where applicable, a description of the process used by the Dealer Member to assess investment suitability, including a description of the process used to assess the client's "know your client" information, a statement as to when account suitability will be reviewed and an indication whether or not the Dealer Member will review suitability in other situations, including market fluctuations;
- a statement indicating material Dealer Member and adviser conflicts of interest and stating that future material conflict of interest situations, where not resolved, will be disclosed to the client as they arise;
- a description of all fees, charges and costs associated with operating the account and in making or holding investments in the account; and
- a description of account reporting the client will receive, including a statement identifying when account statements and trade confirmations will be sent to the client and a description of the Dealer Member's obligations to provide account performance information and a statement indicating whether or not percentage return information will be sent.

The obligations of Dealer Members to provide certain specific disclosures regarding suitability will vary for order-execution service accounts and managed accounts, in that there is no suitability obligation regarding order-execution service accounts and managed accounts must be monitored and supervised according to the specific, more rigorous standards imposed under Dealer Member Rules 1300 and 2500.

IIROC is not mandating the format of the disclosures, but will require that the information be:

- Provided to the client in writing at the time of account opening;
- Written in plain language; and
- Included in a document entitled "Relationship Disclosure".

Dealer Members are obligated to provide some of the relationship disclosure information under the current Rules. The new Rules allow for information already provided to clients to essentially be incorporated by reference as long as the relationship disclosure contains a description of this information and the client is specifically referred to the other documents.

Conflicts of interest management / disclosure – New Dealer Member Rule 42

Rules relating to the management of specific conflicts of interest are already in place. To supplement these existing requirements, the general requirements in new IIROC Dealer Member Rule 42 require that all material conflict situations between the Approved Person and the client and between the Dealer Member and the client be addressed by either: avoiding the conflict, disclosing the conflict or otherwise controlling the conflict of interest situation.

Account suitability – Amended Dealer Member Rule 1300

In addition to the current suitability requirement for trades accepted and recommendations made on retail client accounts, IIROC is now requiring that an account suitability review must be performed when certain "trigger" events occur (i.e., transfers/deposits into an account, material change in client circumstances, change in the account representative).

IIROC is also clarifying how suitability assessment reviews are to be performed. Specifically, amended rules 1300.1(p) through (r) make it clear that all suitability assessment reviews must be performed by taking into consideration the client's "investment objectives and time horizon" and the "account's current investment portfolio composition and risk level."

Date of IIROC Board of Directors approval

These amendments were approved for implementation by the IIROC Board of Directors on June 24, 2010. The text of the amendments is set out in Attachments A through D.

Response to public comments received

These amendments were republished for comment with the issuance of IIROC Rules Notice 11-0005 on January 7, 2011. IIROC staff has considered all of the comments received and thank all of the commenters. A summary of the comments received and IIROC staff's response is enclosed as Attachment F.

Summary of revisions

These amendments reflect revisions made to address CSA and public comments received. The only material revision made to the previously published proposed rules is to remove the requirement for the Dealer Member to obtain client acknowledgement of receipt of the relationship disclosure information - the requirement for the Dealer Member to obtain client acknowledgement of receipt of a copy of the "know your client" information collected remains as part of the amendments. Minor clarification changes have also been made throughout the amendments, none of which represent changes in substance to the previously published proposals. A black-lined copy of the revisions made since the publication for comment of the proposed amendments in January, 2011 is enclosed as Attachment G.

Attachments

- Attachment A – New Rule 3500 – Relationship disclosure
- Attachment B – New Rule 42 – Conflicts of interest
- Attachment C – Amendments to Rule 1300.1 – Supervision of accounts

SROs, Marketplaces and Clearing Agencies

Attachment D – Amendments to Rule 200.1 – Minimum Records

Attachment E – Transition periods and implementation date

Attachment F – Response to public comments received

Attachment G – Black-line to proposals published in January 2011

Client Relationship Model**New Rule 3500 – Relationship disclosure****3500.1. Objective of relationship disclosure requirements**

- (1) This Rule establishes the minimum industry standards for relationship disclosure to retail clients. This Rule does not apply to accounts of institutional clients.

Relationship disclosure is a written communication from the Dealer Member to the client describing:

- the products and services offered by the Dealer Member;
- the nature of the account and the manner in which the account will operate; and
- the responsibilities of the Dealer Member to the client.

Relationship disclosure must be provided to a client at time of opening an account or accounts and when there is a significant change to relationship disclosure information previously provided to a client.

References in this Rule describing the obligations of the Dealer Member in relation to services provided on advisory and managed accounts apply equally to the Approved Persons of the Dealer Member providing services on such accounts.

This Rule should be reviewed in conjunction with:

- Rules 1300.1 and 1300.2 – “Know your client”, suitability and supervision;
- Rules 1300.3 to 1300.21 – Discretionary and managed accounts;
- Rule 2500 – Minimum standards for retail account supervision; and
- Rule 3200 – Minimum requirements for Dealer Members seeking approval under Rule 1300.1(s) for suitability relief for trades not recommended by the Dealer Member.

3500.2. Definition of account relationship types

- (1) An “advisory account” is an account where the client is responsible for investment decisions but is able to rely on advice given by a registered representative. The registered representative is responsible for the advice given. In providing this advice, the registered representative must meet an appropriate standard of care, provide suitable investment recommendations and provide unbiased investment advice.
- (2) An “order-execution service account” is an account opened in accordance with “order-execution service” requirements set out in Rule 3200.
- (3) A “managed account” is an account as defined in Rule 1300.3.

3500.3. Form of relationship disclosure

- (1) Dealer Members have the choice of providing customized relationship disclosure to each client, or appropriate standardized relationship disclosure to separate classes of clients.
- (2) Where standardized relationship disclosure is provided to the client the Dealer Member must determine that the disclosure is appropriate for the client. Specifically, the disclosure must accurately describe:
- (a) the account relationship the client has entered into with the Dealer Member; and
 - (b) the advisory, suitability and performance reporting service levels the client will receive from with the Dealer Member.

- (3) Where a client has more than one account, combined relationship disclosure information may be provided as long as the Dealer Member determines that the combined disclosure is appropriate for the client in light of the relevant circumstances, including the nature of the various accounts.

3500.4. Format of relationship disclosure

- (1) The format of the relationship disclosure is not prescribed but:
 - (a) The relationship disclosure must be provided to the client in writing;
 - (b) The relationship disclosure must be written in plain language that communicates the information to the client in a meaningful way; and
 - (c) The relationship disclosure must include all the required content set out in Section 3500.5, or, where specific information has otherwise been provided to the client by the Dealer Member, a general description and a reference to the other disclosure materials containing the required information.
- (2) Dealer Members may choose to provide the relationship disclosure as a separate document or to integrate it with other account opening materials.

3500.5. Content of relationship disclosure

- (1) The relationship disclosure information must be entitled "Relationship Disclosure".
- (2) Subject to subparagraphs (3) and (4), the relationship disclosure must contain the following information:
 - (a) A description of the types of products and services offered by the Dealer Member;
 - (b) A description of the account relationship;
 - (c) A description of the process used by the Dealer Member to assess investment suitability, including:
 - (i) a description of the approach used by the Dealer Member to assess the client's financial situation, investment objectives and time horizon, risk tolerance and investment knowledge and a statement that the client will be provided with a copy of the "know your client" information that is obtained from the client and documented at time of account opening and when there are material changes to the information;
 - (ii) a statement indicating that the Dealer Member will assess the suitability of investments in the client's account whenever:
 - (A) a trade is accepted,
 - (B) a recommendation is made,
 - (C) securities are transferred or deposited into the account,
 - (D) there is a change in the registered representative or portfolio manager responsible for the account, or
 - (E) there is a material change to the client's "know your client" information; and
 - (iii) a statement indicating whether or not the suitability of the investments held in the account will be reviewed in the case of other triggering events not described in Rule 1300.1(r) and, in particular, in the event of significant market fluctuations;
 - (d) A description of the client account reporting that the Dealer Member will provide, including:
 - (i) a statement indicating when trade confirmations and account statements will be sent to the client;

- (ii) a description of the Dealer Member's minimum obligations to provide performance information to the client and a statement indicating when account position cost and account activity information will be provided to the client; and
 - (iii) a statement indicating whether or not the provision of account percentage return information will be an option available to the client as part of the account service offering;
 - (e) A statement indicating Dealer Member and Approved Person conflicts of interest and stating that existing and potential material conflict of interest situations, where not avoided, will be disclosed to the client as they arise;
 - (f) A description of all account service fees and charges the client will or may incur relating to the general operation of the account;
 - (g) A description of all charges the client will or may incur in making, disposing and holding investments by type of investment product;
 - (h) A listing of the account documents required to be provided to the client with respect to the account; and
 - (i) A description of the Dealer Member's complaint handling procedures and a statement that the client will be provided with a copy of an IIROC approved complaint handling process brochure at time of account opening.
- (3) For order-execution service accounts, the Dealer Member does not have to provide the relationship disclosure information required under subparagraph 2(c), provided that disclosure is made in compliance with the requirements in Rule 3200.
 - (4) For managed accounts, the required disclosure referred to in subparagraph 2(c)(iii) does not apply and the relationship disclosure provided by the Dealer Member must include a statement that ongoing suitability is provided as part of the managed account services.

3500.6. Review of relationship disclosure materials

- (1) Pursuant to Rule 1300.2, the relationship disclosure provided to the client must be approved by a partner, director, officer or designated supervisor. This approval must occur regardless of the form the relationship disclosure takes. If the document is a standardized document, the supervisor who approves new accounts must ensure that the correct document is used in each client circumstance. If the relationship disclosure is a customized document for each client, the designated supervisor must approve each document.

3500.7. Audit trail and client acknowledgement requirements

- (1) The Dealer Member must maintain an audit trail to evidence that account related documents required by IIROC Rules have been provided to the client.
- (2) Dealer Members must obtain their clients' acknowledgement of receipt of the "know your client" information. A client signature acknowledging receipt is preferred, but not required. If the client's signature is not obtained, another acceptable method of documenting the client's acknowledgement of receipt of this information must be used.

Client Relationship Model**New Rule 42 – Conflicts of interest****42.1. Responsibility to identify conflicts of interest**

- (1) Each Dealer Member and, where applicable, Approved Person shall take reasonable steps to identify existing and potential material conflicts of interest between the interests of the Dealer Member or Approved Person and the interests of the client.
- (2) Where an Approved Person becomes aware of an existing or potential material conflict of interest, the existing or potential conflict shall be reported immediately to the Dealer Member.

42.2. Approved Person responsibility to address conflicts of interest

- (1) The Approved Person must consider the implications of any existing or potential material conflicts of interest between the Approved Person and the client.
- (2) The Approved Person must address all existing or potential material conflicts of interest between the Approved Person and the client in a fair, equitable and transparent manner, and consistent with the best interests of the client or clients.
- (3) Any existing or potential material conflict of interest between the Approved Person and the client that cannot be addressed in a fair, equitable and transparent manner, and consistent with the best interests of the client or clients, must be avoided.

42.3. Dealer Member responsibility to address conflicts of interest

- (1) The Dealer Member must consider the implications of any existing or potential material conflicts of interest between the Dealer Member and the client.
- (2) The Dealer Member must address the existing or potential material conflict of interest in a fair, equitable and transparent manner, and considering the best interests of the client or clients.
- (3) Any existing or potential material conflict of interest between the Dealer Member and the client that cannot be addressed in a fair, equitable and transparent manner, and considering the best interests of the client or clients, must be avoided.
- (4) The Dealer Member must adequately supervise how existing or potential material conflicts of interest between the Approved Person and the client are addressed by its Approved Persons pursuant to section 42.2.

42.4. Responsibility to disclose conflicts of interest

- (1) Unless avoided, an existing or potential material conflict of interest must be disclosed to the client in all cases where a reasonable client would expect to be informed:
 - (a) for new clients, prior to opening an account for the client; and
 - (b) for existing clients, either as the conflict of interest occurs or, in the case of a transaction related conflict of interest, prior to entering into the transaction with the client.

42.5. Conflicts of interest policies and procedures

- (1) Each Dealer Member shall develop and maintain written policies and procedures to be followed in identifying, avoiding, disclosing and addressing material conflict of interest situations.

Client Relationship Model**Amendments to Rule 1300 – Supervision of accounts**

1. Rule 1300 subsections 1300.1(p) through (v) are repealed and replaced as follows:

“Suitability determination required when accepting order

- (p) Subject to Rules 1300.1(t) and 1300.1(u), each Dealer Member shall use due diligence to ensure that the acceptance of any order from a client is suitable for such client based on factors including the client's current financial situation, investment knowledge, investment objectives and time horizon, risk tolerance and the account or accounts' current investment portfolio composition and risk level. If the order received from a client is not suitable, the client must, at a minimum, be advised against proceeding with the order.

Suitability determination required when recommendation provided

- (q) Each Dealer Member, when recommending to a client the purchase, sale, exchange or holding of any security, shall use due diligence to ensure that the recommendation is suitable for such client based on factors including the client's current financial situation, investment knowledge, investment objectives and time horizon, risk tolerance and the account or accounts' current investment portfolio composition and risk level.

Suitability determination required for account positions held when certain events occur

- (r) Each Dealer Member shall, subject to Rules 1300.1(t) and 1300.1(u), use due diligence to ensure that the positions held in a client's account or accounts are suitable for such client based on factors including the client's current financial situation, investment knowledge, investment objectives and time horizon, risk tolerance and the account or account(s)' current investment portfolio composition and risk level whenever one or more of the following trigger events occurs:
- (i) Securities are received into the client's account by way of deposit or transfer; or
 - (ii) There is a change in the registered representative or portfolio manager responsible for the account; or
 - (iii) There has been a material change to the client's life circumstances or objectives that has resulted in revisions to the client's "know your client" information as maintained by the Dealer Member.

Suitability of investments in client accounts

- (s) To comply with the requirements under Rules 1300.1(p), 1300.1(q) and 1300.1(r), the Dealer Member must use due diligence to ensure that:
- (i) The suitability of all positions in the client's account is reviewed whenever a suitability determination is required; and
 - (ii) The client receives appropriate advice in response to the suitability review that has been conducted.

Suitability determination not required

- (t) Each Dealer Member that has applied for and received approval from the Corporation pursuant to Rule 1300.1(v), is not required to comply with Rules 1300.1(p), 1300.1(r) and 1300.1(s), when accepting orders from a client where no recommendation is provided, to make a determination that the order is suitable for such client.
- (u) Each Dealer Member that executes a trade on the instructions of another Dealer Member, portfolio manager, investment counsel, limited market dealer, bank, trust company or insurer, pursuant to Section I.B (3) of Rule 2700 is not required to comply with Rule 1300.1(p).

Corporation approval

(v) The Corporation, in its discretion, shall only grant such approval where the Corporation is satisfied that the Dealer Member will comply with the policies and procedures outlined in Rule 3200. The application for approval shall be accompanied by a copy of the policies and procedures of the Dealer Member. Following such approval, any material changes in the policies and procedures of the Dealer Member shall promptly be submitted to the Corporation.”

2. References in Rules 1300 and 3200 to subsections 1300.1(p) and 1300.1(t) are amended as follows:

(a) References to existing subsection 1300.1(p) are repealed and replaced by references to new subsections 1300.1(p) and 1300.1(r); and

(b) References to existing subsection 1300.1(t) are repealed and replaced by references to new subsection 1300.1(v).

Client Relationship Model**Amendments to Rule 200.1 – Minimum records**

1. Rule 200 is amended by renumbering existing subsections 200.1(d) through (n) as subsections 200.1(g) through (q).
2. Rule 200 is amended by adding new subsections 200.1(d), 200.1(e) and 200.1(f) as follows:
 - “(d) Client account cost reports for all accounts other than those held by institutional clients, itemizing security position cost information as follows:
 - (1) For all new security positions added to the account on or after the latest of:
 - (i) [Date of implementation],
 - (ii) The date the account was opened or
 - (iii) If applicable, the date the account was received in by the Dealer Member as a transferred account,the original cost of the position.
 - (2) For all existing security positions in the account as of [Date of implementation], the original cost of the position. Where original cost information is unavailable or is known to be inaccurate, Dealer Members may elect to provide market value information as at [Date of implementation], or as at an earlier date (referred to as “point in time market value”) instead of original cost information, provided that it is done for all similar accounts and as at the same date.Where the account was received in by the Dealer Member as a transferred account, the market value of the positions as at the date the account was received in via transfer (also referred to as “point in time market value”) may be used instead of original cost.

For each security position, the current market value as at the report date shall be provided as a comparison to the cost information. The basis for costing each position (either original cost or point in time market value) must be disclosed.

Client account cost reports shall be sent to clients annually, at a minimum.
- (e) For all accounts other than those held by institutional clients, client account performance information disclosing the annual and cumulative realized and unrealized income and capital gains in the client’s account. This account performance information shall be sent to clients annually, at a minimum.
- (f) For all accounts other than those held by institutional clients, client account performance reports itemizing account annualized compound percentage returns for the net performance of the client’s account.

Account annualized compound percentage return information

Where the account has existed for more than one year, account annualized compound percentage return information shall be provided indicating the account’s net performance for the past one, three, five and ten year periods and for the period since account inception. Where the account has existed for less than one year, account annualized compound percentage return information shall not be provided.

The report containing the annualized compound percentage return information shall also contain:

- (1) A definition of the term “compound percentage return”; and
- (2) A description of the computational method used in determining the annualized compound percentage return information.

The computational method used in determining annualized compound percentage return information shall be a method acceptable to the Corporation. The report containing account annualized compound percentage return information shall be sent to clients annually, at a minimum.”

3. The Guide to Interpretation of Rule 200.1 is amended by renumbering guide items (d) through (n) as guide items (g) through (q).

4. The Guide to Interpretation of Rule 200.1 is amended by adding new guide items (d) through (f) as follows:

“(d) **“Client account cost reports”**

Reports must include all client account security and other investment product positions held by the Dealer Member for the client in nominee name or physically in client name and all other client account positions for which the Dealer Member continues to receive compensation, subject to the exceptions below.

Where, pursuant to Rule 200.1(d)(2), the original cost information is unavailable and the point in time market value amount cannot be reliably measured for an individual position held, the cost information for the position shall be reported as not determinable.

Where the market value for a particular position cannot be reliably measured, the current market value information for the position shall be reported as not determinable. In such instance, a disclosure in the client account cost report shall inform the client that the information is not determinable and why the information is not determinable.

The information provided in the client account cost report may be provided to the client on either a dollar amount or dollar amount per share basis.

The client account cost report may be provided to the client as part of the client account statement, referred to in Rule 100.2(c), or separately.

“(e) **“Cumulative account performance information”**

The cumulative account performance information must be determined based on all client account security and other investment product positions held by the Dealer Member for the client in nominee name or physically in client name and all other client account positions for which the Dealer Member continues to receive compensation, subject to the exceptions below.

Where there are one or more positions held in the client account for which the current market value is not determinable, the position(s) shall be considered to have no value in the determination of cumulative account performance. In such instance, a disclosure in the cumulative account performance information shall inform the client that the value of the positions has been set at nil for account performance calculation purposes and why.

Where multiple accounts of the same client have the same investment objectives, clients may be offered the alternative of portfolio level (portfolio level being a consolidation of all account positions and debit/credit money balances of the same client) cumulative account performance information. Where the client consents to this alternative, the Dealer Member would not be required to provide performance information for each of the accounts included in the portfolio level reporting.

At the option of the Dealer Member, clients may instead be provided with cumulative account performance information that delineates advised/non-advised account positions.

The cumulative account performance information may be provided to the client as part of the client account statement, referred to in Rule 100.2(c), or separately.

“(f) **“Account annualized compound percentage return information”**

The account annualized compound percentage return information must be determined based on all client security and other investment product positions held by the Dealer Member for the client in nominee name or physically in client name and all other client account positions for which the Dealer Member continues to receive compensation, subject to the exceptions below.

Where there are one or more positions held in the client account for which the current market value is not determinable, the position(s) shall be considered to have no value in the determination of annualized compound

percentage returns. In such instance, a disclosure in the annualized compound percentage return information shall inform the client that the value of the position(s) has been set at nil for percentage calculation purposes and why.

At the option of the Dealer Member, clients may be provided with portfolio level (portfolio level being a consolidation of all account positions and debit/credit money balances of the same client) annualized compound percentage return information.

At the option of the Dealer Member, clients may instead be provided with annualized compound percentage return information that delineates advised/non-advised account positions.

Account annualized compound percentage return information may be provided to the client as part of the client account statement, referred to in Rule 100.2(c), or separately.”

Client Relationship Model

Transition periods and effective implementation dates

Client Relationship Model Element	Transition Period	Effective Implementation Date
Relationship disclosure requirements		
Provision of relationship disclosure information to:		
(i) new clients	1 year	March 26, 2013
(ii) existing clients	2 years	March 26, 2014
Conflicts of interest management / disclosure requirements		
Provisions relating to conflict identification and avoiding and addressing conflicts	Immediate	March 26, 2012
Provisions relating to conflict disclosure:		
(i) prior to opening an account	Immediate	March 26, 2012
(ii) inclusion of conflicts disclosure in relationship disclosure information provided to new clients	1 year	March 26, 2013
(iii) inclusion of conflicts disclosure in relationship disclosure information provided to existing clients	2 years	March 26, 2014
(iv) prior to entering into a transaction	Immediate	March 26, 2012
Account suitability requirements		
Trigger event suitability assessment requirements	6 months	September 26, 2012



March 26, 2012

Re: IIROC response to comments on Client Relationship Model Rules and amendments to IIROC Dealer Member Rules 200 and 1300

We are publishing this letter in response to the comment letters received on the proposed Client Relationship Model (CRM) rules and amendments, which include proposed amendments to IIROC Dealer Member Rules 200 and 1300, the CRM guidance note ("Guidance Note") and the Know Your Client and Suitability guidance note ("Know your client and Suitability Guidance Note").

We received 13 comment submissions in response to the request for comments. We thank all of the commenters for their helpful submissions.

The comments have been summarized and grouped according to the issues raised. The response by IIROC staff follows each particular issue.

GENERAL

Consistency between IIROC and other proposals

1. We received 5 comments regarding the need for consistency between the IIROC proposals and those of the CSA and MFDA.

IIROC staff response

IIROC staff consulted extensively with representatives of the CSA and the MFDA throughout the development of the proposed rules and has made several changes to its proposals to enhance consistency in the approaches, where applicable. Where there continues to be inconsistencies in the approaches taken, these are generally required to accommodate for the differences in the business models / account types typically offered by registrants under each registration category.

Cost versus benefits of proposed amendments

2. We received 5 comments which relate to potential costs versus benefits of the proposed amendments.

IIROC staff response

Although it is difficult to quantify with any degree of precision, comments received from investors indicate that a significant benefit of these proposals will be to enhance investor protection through greater disclosure of account relationship, firm/advisor conflict of interest and account performance information and through more frequent assessment of the suitability of the account assets. IIROC staff have received considerable input on cost issues throughout the rule-making process. We believe that we understand and have fully considered the cost issues noted in the comments. Wherever possible, IIROC has developed its proposals to achieve the investor protection goals of the CRM project while minimizing the potential implementation costs and ongoing costs of compliance.

Need for further consultation

3. Three comments suggested that further consultation be conducted with respect to the challenges that would have to be addressed in complying with the proposed requirements.

IIROC staff response

IIROC staff has fully considered the challenges facing Dealer Members. Extensive consultations have been conducted with Dealer Members, Approved Persons and other industry participants throughout the development of the proposed rules. Further, industry representatives were directly involved in the drafting of the CSA-approved direction documents that set out the basis for the proposed changes. Joint SRO/industry committees were also consulted in the drafting of the proposed rule amendments. Finally, the proposed amendments have been published for public comment on three occasions.

Transition periods

4. We received the following comments regarding the transition periods:

- A minimum of 12 to 18 months should be provided for delivery of the relationship disclosure information to new clients.
- The time frame for performance reporting should be extended to a minimum of 3 years for all account performance reporting requirements from the date of implementation, or in the alternative, consider the use of a “phased in” approach for the performance reporting requirements.

IIROC staff response

IIROC staff has revised the transition periods to reflect the removal of the requirement for clients to acknowledge receipt of relationship disclosure information.

Also, as IIROC has been requested by the CSA to suspend the implementation of the performance reporting elements of its CRM proposals until the end of 2012, and has agreed to do so in order that the CSA performance reporting proposals can be finalized, the commencement of the implementation of the performance reporting elements has been deferred.

The following is a summary of the revised transition periods:

Relationship disclosure requirements	
New clients	1 year
Existing clients	2 years
Conflicts of interest management / disclosure requirements	
Provisions relating to conflict identification and avoiding and addressing conflicts	Immediate
Provisions relating to conflict disclosure:	
(i) prior to opening an account	Immediate
(ii) inclusion of conflicts disclosure in relationship disclosure information provided to new clients	1 year
(iii) inclusion of conflicts disclosure in relationship disclosure information provided to existing clients	2 years
(iv) prior to entering into a transaction	Immediate
Account suitability requirements	
Trigger event suitability assessment requirements	6 months
Account performance reporting requirements	
Security position cost disclosure	Implementation deferred
Account activity disclosure	Implementation deferred

<p>Account percentage return disclosure</p> <p>(i) Where percentage return information is currently, provided, an IIROC approved calculation method must be used or the information may not be provided to any client</p> <p>(ii) Mandatory percentage return reporting for all retail clients</p>	<p>Implementation deferred</p> <p>Implementation deferred</p>
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RELATIONSHIP DISCLOSURE

Prescriptive nature of disclosure requirements

- We received 4 comments suggesting that the proposed rules take a less prescriptive approach to the disclosure requirements in order to allow Dealer Members more flexibility in determining the material information to be provided to clients.

IIROC staff response

The relationship disclosure requirements are designed to address a fundamental objective of the Client Relationship Model project – to provide clients with a better understanding of what to expect from their Dealer Member and advisor when they open an investment account. However, balanced against the desire to state this objective in broad principles-based language is also the need to set clear, minimum standards regarding the nature and quality of such disclosure.

It is IIROC’s view that the proposed requirements strike an appropriate balance, setting out clear minimum standards, while still allowing a sufficient degree of flexibility to accommodate differences in Dealer Members’ business models.

Content requirements

We received the following comments relating to the required content for the proposed relationship disclosure information:

- To ensure consistency, remove the word “form” from the term “KYC information form” and remove the words “collection form” from the term “know your client information collection form”.

IIROC staff response

The proposed rules and Guidance Note have been revised to remove the word “form” from the term “KYC information form” and remove the words “collection form” from the term “know your client information collection form”.

- The Guidance Note should clearly provide that the obligation to provide the relationship disclosure document resides solely with the introducing broker.

IIROC staff response

The Guidance Note clearly states that the introducing broker is responsible for providing the relationship disclosure information to clients, as well as for supervising the suitability of all trading activity.

- Relationship disclosure for retail accounts should provide more context about the advisor-client relationship and should be made on a consistent “rolling” basis.

IIROC staff response

We understand this to mean that the commenter believes that relationship disclosure should be provided on a consistent basis as opposed to only when there are changes. The proposed rules require that Dealer Members accurately describe the account relationship the client has entered into with the Dealer Member, as well as the advisory, suitability and performance reporting service levels the client will receive from the Dealer Member. Although there is a requirement to provide clients with updated relationship disclosure when significant changes to the account relationship have occurred, Dealer Members may choose to provide ongoing periodic relationship disclosure regardless of whether or not material changes have occurred.

9. Section XX05(2)(c)(i) has not been updated to reflect that firms are now required to consider a client's time horizon when providing a client with a description of how investment suitability is assessed.

IIROC staff response

We agree that "time horizon" should be disclosed to the client as an important suitability consideration and have added it to proposed Rule XX05(2)(c)(i).

10. The current wording of Rule XX05(2)(d)(iii) refers to the relationship disclosure document containing "a statement indicating whether or not the provision of account percentage return information will be an option available to the client" does not appear to be reflective of the new requirement to provide percentage return information.

IIROC staff response

Proposed rule XX05(2)(d)(iii) has been drafted to take into account both Dealer Members who currently provide account performance reporting information and Dealer Members who do not currently do so. In order to avoid having to regularly update the client relationship disclosure documents, it may be more efficient for Dealer Members who do not currently provide account performance reporting information to expressly state the performance reporting information that they plan to provide to clients over the implementation period of the IIROC requirements to provide clients with performance information.

11. There should be a mandatory, standardized suitability approach for accounts other than for "order-execution only" accounts.

IIROC staff response

IIROC staff believes that a Dealer Member's approach to assessing a client's financial situation, investment objectives and time horizon, risk tolerance and investment knowledge may vary from client to client and the Dealer Member should, therefore, be given the flexibility to select the process that best achieves the objective of the rule.

12. The utility of the requirement to describe the approach used by the Dealer Member to assess investment suitability, including a description of the process used to assess the client's 'know-your-client' information, given that advisors use different approaches, is questionable. Further discussion in the proposed CRM Guidance Note is required.

IIROC staff response

The intention of the proposed disclosure requirement is that the Dealer Member should not only tell the client that they are performing suitability assessments but also explain to the client, in general terms, how and when suitability assessments will be performed and what factors will be considered in making those assessments. Many clients may be unaware of this current obligation and the factors that are considered by Dealer Members in meeting this obligation. IIROC staff have reviewed draft guidance note and are satisfied that the need to provide this information to clients and the information that must be provided is adequately explained.

13. Dealer Members should be required to disclose charges in advance of the purchase or sale of a security.

IIROC staff response

The Guidance Note has been revised to encourage Dealer Members to adopt best practices, including the disclosure of charges specific to a transaction, prior to the acceptance of a client's order.

Delivery and client acknowledgment of documentation

We received the following comments regarding issues with the delivery requirements and client acknowledgment:

14. Proposed Rule XX07 relating to relationship disclosure information should be amended to remove the requirement to obtain client acknowledgment. In the alternative, a 'notice and access approach' should be taken to the delivery of the relationship disclosure information to existing clients.

IIROC staff response

The Proposed Rule XX07 and Guidance Note have been revised to remove the requirement to obtain client acknowledgment of the relationship disclosure information. As a result of these revisions, Dealer Members will only be required to obtain client acknowledgment of the “know your client” information that is collected from the client at the time of account opening.

15. Provide additional examples of acceptable methods of acknowledgment and, in particular, guidance on whether negative confirmation is an acceptable method of documenting the client’s acknowledgment.

IIROC staff response

Dealer Members are required to obtain their client’s positive acknowledgement of the “know your client” information at the time of account opening. To meet this obligation, Dealer Members may use whatever method best suits their business model, provided that compliance with the basic acknowledgement requirement can be demonstrated by the Dealer Member. Acceptable methods include, but are not limited to:

- a signature,
- a documented phone conversation during which the client acknowledges receipt of the information, and/or
- an email or letter from the client acknowledging receipt of the information.

16. Further guidance is required in the event Dealer Members fail to obtain client acknowledgement.

IIROC staff response

If a Dealer Member is unable to obtain positive acknowledgment at the time of account opening, the request to open the account must be declined. Use of a negative confirmation approach will not satisfy the account opening requirement to obtain client acknowledgement of the “know your client” information. Further, Dealer Members that intend to use an electronic acknowledgement approach would be expected to satisfy the requirements noted in IDA Member Regulation Notice MR-008.

Subsequent material changes to “know your client” information may be evidenced by either positive or negative confirmation. As a result, a Dealer Member may obtain a client signature, or alternatively, maintain notes in the client file detailing the client’s instructions to change the information. Dealer Members are required to verify the client’s instructions by providing written confirmation to the client with details of the instructions and providing an opportunity for the client to make corrections to any changes that have been made.

In situations where “know your client” information is missing entirely, or specific fields such as the client’s current financial situation, investment knowledge, investment objectives and time horizon, and risk tolerance are missing, Dealer Members must restrict the client from entering into any further account transactions other than liquidating transactions until the missing information is received.

This further guidance has been added to the draft Guidance Note.

17. Clarify that a signature is indeed a “best practice”; however, firms can use whatever method suits their business model.

IIROC staff response

The draft Guidance Note states that acknowledgement of know your client information must be positively acknowledged and that, while obtaining a client signature is the preferred form of positive acknowledgement, other forms of positive acknowledgement such as a documented phone conversation or an e-mail are acceptable.

18. Further information is required on the interpretation of “in writing”, “plain language” and “meaningful way”.

IIROC staff response

The words “in writing”, “plain language” and “meaningful way”, are plain language terms and refer to the written communication of information that is most appropriate to your audience (i.e. it is easy to read, understand and use).

Requests for clarification of rule

We received the following comments requesting clarification of certain aspects of the proposed relationship disclosure requirements:

19. Provide further clarification of the level of disclosure of fees/charges to clients.

IIROC staff response

As discussed in the proposed Guidance Note and consistent with National Instrument 31-103 (“NI 31-103”), the discussion of account operation and transaction fees/charges will include all charges a client may incur during the course of acquiring, selling or holding an investment product, including amounts to be paid indirectly to the Dealer Member by the client. For example, mutual fund fees/charges disclosure should include a discussion of the management expenses that are deducted from fund performance by the mutual fund manager as well as the types of fees/charges that may be paid to the Dealer Member by the mutual fund manager from these collected management expenses. This may be done through a fee schedule which lists all the fees/charges that may be borne by the client. A detailed description of the specific products and services provided and the processes Dealer Members put in place to deliver those products and services is also required. A customized relationship disclosure document must be provided according to account service offering.

20. Relationship disclosure information should be delivered to clients of order-execution service accounts after the new account is approved and trades are executed.

IIROC staff response

IIROC staff does not believe there is a good rationale for adopting this suggestion. Specifically, while there is no suitability obligation as part of the order-execution only account service offering, there is an obligation to ensure that the order-execution only service clients are aware of the services they are receiving, the charges they may incur and the reporting they will receive at the time they open their account; the same obligation as with any other account type. As a result, we continue to believe that relationship disclosure information should be provided to all retail clients at the time they open their account, regardless of the account type. The rules do recognize however, that obligations of Dealer Members to provide specific disclosures will differ, as there is no suitability obligation regarding order-execution service accounts.

21. Where some advisors only offer fee-based products and not commission-based products, would the Dealer Member be required to develop different relationship disclosure documents for these advisors?

IIROC staff response

The proposals mandate the information to be disclosed and set out general principles-based requirements to be complied with, relating to the form and format of the disclosure. These general principles-based requirements require that the disclosure, among other things, “be written in plain language that communicates the information to the client in a meaningful way”. If a Dealer Member provides the same disclosure information to their clients with fee-based accounts as well as to their clients with commission-based accounts, we don’t believe that this principles-based standard would be met, as the client would not be informed as to whether the account they opened was fee-based or commission-based and what the material differences would be relating to, for instance, services provided and fees charged.

22. Provide clarification on whether Investment Counselors will be responsible for providing their clients with relationship disclosure documents.

IIROC staff response

Investment Counselors will be responsible for providing clients with relationship disclosure information. Where a firm is registered solely as a Portfolio Manager, the relationship disclosure requirements set out in NI 31-103 will apply. Where a firm is registered as both Portfolio Manager and an Investment Dealer, the IIROC relationship disclosure requirements will apply.

CONFLICTS RESOLUTION AND DISCLOSURE

Clarification of disclosure requirements

We received the following comments requesting clarification of the requirements relating to conflict disclosure:

23. The “best interests of the client” may be misinterpreted as creating a fiduciary duty in Canada, and there is no reason why IIROC should adopt a higher standard regarding conflicts of interest management / disclosure than that set out in NI 31-103. This “best interests of the client” language should be removed.

IIROC staff response

IIROC does not believe that the phrase “best interests of the client” on its own creates a fiduciary duty relating to existing or potential material conflicts of interest, and it is not IIROC’s intention to do so. Whether or not a fiduciary duty exists in an account relationship depends on the facts of each case, including, among other things, the services being provided to the client and the degree to which the client relies on the firm/adviser in making investment decisions. While the standard of conduct established by the proposal is not as high as the fiduciary standard, it is intended to strengthen investor protection by clarifying IIROC’s expectations on how existing or potential material conflicts of interest are to be addressed as between the Approved Person and the client, as well as between the Dealer Member and clients generally.

24. Further guidance is needed on whether only material conflicts need to be identified and disclosed or if all conflicts must be disclosed.

IIROC staff response

We have revised the language in proposed Rule XX04 to now clearly indicate that only material existing or potential conflicts of interest, unless avoided, need to be disclosed.

25. A strong emphasis should be placed on the immediate disclosure of all material conflicts.

IIROC staff response

Proposed Rule XX04 sets out when conflicts must be disclosed to both new and existing clients. For new clients, the proposed rule requires that conflicts of interest be disclosed prior to the opening of the account, which is effectively the same as immediate disclosure. For existing clients, the proposed rule requires that conflicts must be disclosed either when the conflict of interest occurs or, in the case of a proposed transaction, prior to entering into the transaction. Again, these requirements effectively mandate the immediate disclosure of conflicts of interest that are relevant to the client.

26. Provide additional guidance in understanding the meaning of materiality in the context of conflicts in the brokerage business.

IIROC staff response

Determining whether a conflict is material depends on the facts of each case. However, where the conflict is so significant that there is a reasonable likelihood that a client would want to know about it, this would be considered a material conflict of interest that must be addressed and disclosed. This is consistent with the approach adopted under proposed NI 31-103.

27. Guidance is required on what will be considered “reasonable steps”.

IIROC staff response

This requirement was deliberately drafted to enable Dealer Members to determine the approaches that are most efficient for them in identifying material conflict of interest situations. Therefore, “reasonable steps” will depend on the specific facts and surrounding circumstances of each case.

28. To ensure consistency, the proposed relationship disclosure rule should be revised to require disclosure of “material” conflicts of interest situations.

IIROC staff response

The proposed relationship disclosure rule has been revised to require disclosure of “material” conflicts of interest situations.

29. A best practice guide for the industry on conflicts of interest which would outline various scenarios that dealers and advisors should be aware of is recommended.

IIROC staff response

IIROC staff will review the existing draft Guidance Note as an interim step to determine if dealers and advisors should be made aware of additional conflicts of interest scenarios. IIROC is also willing to work with the industry to develop a best practice guide as a longer term initiative, to be updated periodically as new conflict of interest situations common to the industry are identified. However, it is not felt to be practical to commit to providing guidance (either through the issuance of a guidance note or through the development of a best practice guide) on every possible conflict of interest situation, given that each situation will have a different set of facts. Furthermore, a “best practice” guide may also be misleading and may be interpreted as providing an exhaustive list of conflicts of interest situations that need to be addressed.

RETAIL CLIENT SUITABILITY

Request for clarification

We received the following comments regarding certain aspects of the proposed suitability assessment requirements:

30. Dealer Members should be allowed to implement “know your client” and suitability assessment processes using a risk-based approach approved by management.

IIROC staff response

IIROC staff encourages Dealer Members to use a risk based approach in determining which best practices should be incorporated into their “know your client” policies and procedures. This has been addressed in the Know Your Client and Suitability Guidance Note.

31. There is a typo in 1300.1(p) as reference to “1300.1(s)” should read “1300.1(u)”.

IIROC staff response

The proposed rule has been revised accordingly.

32. Subsection 1300.1(t) should reference new suitability requirements 1300.1(r) and (s).

IIROC staff response

The proposed rule has been revised accordingly.

33. Clarification is required on whether suitability assessments should be conducted on an account level and as a best practice that suitability be assessed on a portfolio level.

IIROC staff response

The Know your client and Suitability Guidance Note addresses this point and specifies the conditions under which a suitability assessment may be performed on a multiple account or portfolio basis. Where these conditions are not met, a suitability assessment must be performed on an account basis.

34. Further guidance is required as to what type of process should be used and what outcome should be expected following one of the trigger events, as well as the responsibilities of each party involved in these “post trigger” reviews.

IIROC staff response

When a trigger event occurs, a suitability review must be conducted for all positions held in a client's account or, where the necessary conditions are met, a client's accounts. The account positions must be suitable for such client based on the client's:

- current financial situation,
- investment knowledge,

- investment objectives and time horizon,
- risk tolerance

as well as the account's current investment portfolio composition and risk level. Dealer Members are encouraged to adopt best practices, as outlined in the Know your client and Suitability Guidance Note. Doing so, would assist Dealer Members ensure the ongoing maintenance of a suitable client portfolio and would prompt Dealer Members to remind their clients to update previously collected information, if there is a material change in the client's circumstances.

35. Environmental, social and governance considerations should be included in the determination of investment objectives.

IIROC staff response

The factors set out in subsections 1300.1(p) and (q) are not exhaustive. Registered Representatives are required to conduct a suitability assessment based on the client's particular circumstances. This may include environmental, governance and social considerations.

36. Additional guidance is requested on how a Dealer Member is expected to set up a compliance structure to effectively supervise whether or not a suitability review of all positions in the client's account has occurred and the client has received appropriate advice.

IIROC staff response

It is not IIROC's intention to require a supervisory review of every suitability assessment that has been performed within the firm. The language in subsection 1300.1(s) has been amended to make it clear that the requirements apply to the performance of the suitability assessment and not to the supervision of the suitability assessment itself.

Limitations on suitability obligations

We received comments with respect to the requirement to perform a suitability assessment:

37. The proposed Rules 1300.1(p) and (r) continue to require that Dealer Members "ensure" that positions transferred are suitable. The words "to ensure" should be replaced with the words "in considering".

IIROC staff response

Replacing the words "to ensure" in the phrase "shall use due diligence to ensure" with the words "in considering" would effectively lessen the current and proposed suitability assessment obligations. As suitability assessment is a fundamental obligation in an advisory account, staff believes this change would inappropriately lessen this standard. Furthermore, there is no evidence to suggest that Dealer Members are unable to comply with the current suitability assessment requirements.

38. Individual advisors are not automatically notified of transfers or deposits and are only made aware of the deposit or transfer after it takes place. Suggested amendments to address this concern include (a) limiting the suitability assessment requirement to "material" deposited/transferred in positions, and/or (b) allow the suitability assessment of the deposited/transferred in positions to be performed at the time of the next trade recommendation or order acceptance.

IIROC staff response

IIROC staff believes that the proposed security deposit/transfer suitability requirement provides significant benefits to the client. Adding a process requiring that all security transfers/deposits be approved by the advisor before proceeding would ensure that the advisor is informed in advance and is able to assess whether any security position being transferred in or deposited is suitable for the client, prior to the transfer/deposit taking place.

IIROC staff believes that the issue of materiality is already adequately addressed by moving to a portfolio approach for suitability assessment. For example, if \$1,000 worth of high risk securities is transferred into an account with a \$1 million in account assets, it's unlikely that the position would be determined to be unsuitable as part of the overall account. The same could not be said for \$100,000 worth of high risk securities. Further, to allow the suitability assessment of the deposited/transferred in positions to be performed at the time of the next trade recommendation or order acceptance would, in effect, eliminate the deposit/transfer triggered suitability assessment requirement. IIROC staff is of the view that suitability assessments should be performed whenever a security position is added to the client's account portfolio.

Timing of reviews

We received three comments requesting clarification of IIROC's expectations regarding timelines for completion of suitability assessments:

39. Further guidance is required in determining what constitutes a reasonable amount of time to conduct reviews where there has been a transfer in of a block of accounts to a new advisor. The date of transfer should be viewed as the starting point when determining whether or not the triggered suitability review was performed within a reasonable time.

IIROC staff response

A reasonable time standard is an amount of time which is necessary, given the circumstances, to conduct a suitability review, while ensuring that the obligation to expediently service clients is met. Whether the amount of time taken to conduct a suitability review is unreasonable will depend on the nature, purpose and circumstances of each case. Although it would be optimal for the advisor to be informed of a pending transfer before it takes place, IIROC staff agrees that the date of transfer should be viewed as a reasonable starting point when determining whether or not the triggered suitability review was performed within a reasonable time.

ACCOUNT PERFORMANCE REPORTING

General issues regarding performance reporting

We received the following comments regarding the proposed requirement to provide performance reporting:

40. IIROC's performance reporting rules are still subject to approval or disapproval by the CSA. How can a Dealer Member inform clients of their performance reporting plans if the rules are not immediately confirmed?

IIROC staff response

We understand this concern but believe that it can be addressed by disclosing the following as part of the relationship disclosure information: (a) how the dealer plans to adopt the IIROC and CSA performance reporting requirements once implemented, and (b) that the dealer will provide regular updates as part of its client newsletter (or by other means) on the performance information that will be provided to clients.

The Guidance Note has been amended to provide further guidance as to how to initially inform clients about the account performance information they will be receiving.

41. The reporting requirements could result in attribution of multiple point-in-time market values to respective incoming batches of that same security. Would subsequent performance reporting isolate and reflect distinct point-in-time market values for each batch of the transferred-in position or would the reporting display a single weighted cost value for the entire holding?

IIROC staff response

The amount disclosed would be a single weighted average cost value for the entire holding.

42. Do the proposed rules only apply to Canadian based clients or do they extend to international clients as well?

IIROC staff response

The proposed performance reporting requirements apply to all clients, other than Institutional Customers, regardless of geographical location.

43. The use of an arbitrary market value will, by definition, provide the client with inaccurate information which may lead the client to make an incorrect assessment of their security's performance.

IIROC staff response

Market value is only to be used for positions held as at implementation date when original cost information is unavailable. The implementation date market value will allow the client to determine how the value of the position has changed over time, from the value reported as at the date of implementation.

44. In determining the market value of a security should the bid, ask or close price be used?

IIROC staff response

The approach used to determine market value should be the same as the approach used to determine market value for the purposes of client statement reporting. Specific to the comment about valuing illiquid securities, the current approach used for client statement reporting is that if a particular position is determined to be “not readily marketable, no market value shall be assigned” to the position. It is also proposed that this approach should also be used to determine the market value of illiquid securities for the purposes of performance reporting.

45. How do we price an illiquid security where a market value is unavailable?

IIROC staff response

The current approach used to price an illiquid security where a market value is unavailable for client statement reporting is that if a particular position is determined to be “not readily marketable, no market value shall be assigned” to the position. It is also proposed that this approach should also be used to determine the market value of illiquid securities for the purposes of performance reporting.

46. The proposed requirement under Rule 200.1(f) is difficult to reconcile with Bulletin MR-087 which effectively prohibits Dealer Members from combining securities held in a client name with those held in firm name on a regular monthly statement. As a result, an additional “consolidated” statement would have to be generated for every client that held such securities in client name, adding to the cost and complexity of this requirement. Where investors hold mutual funds in client name they would already be receiving performance reporting directly from the fund company, so this requirement appears to be somewhat superfluous.

IIROC staff response

The scope of client assets that a Dealer Member must report performance on and the scope of client assets that a Dealer Member must report as “client holdings held in custody under Dealer Member control” are two distinct issues. Specifically, the guidance set out in IDA Member Regulation Notice MR-087 is not relevant to determining the scope of client assets to report performance on. That guidance applies to positions to be reported in a client account statement.

Carve-out from the performance reporting requirements

We received the following comments regarding the proposed requirement to provide performance reporting:

47. If performance reporting is made mandatory for all accounts, fewer individuals may continue to have access to a full-service advisor.

IIROC staff response

The proposals would apply to all account types – not just discretionary accounts (most of whom already get some form of performance reporting) and advisory accounts but also order-execution only accounts. It is our understanding that the additional costs of enhanced performance reporting will equally apply to both advisory account and order-execution only account service offerings.

48. There should be a carve-out from the application of performance reporting requirements for accounts valued under \$100,000. These should be valued annually and reporting should be provided in the following calendar year.

IIROC staff response

Providing a blanket carve-out for accounts under a certain size means that the affected clients won't be given a choice as to whether or not they want to receive (and possibly pay for) account performance information.

Security position cost disclosure

49. We received 6 comments requesting that Dealer Members be allowed to decide which security cost information they disclose to clients or, failing that, that tax cost be disclosed.

IIROC staff response

IIROC staff believes that a security's original cost is the most accurate cost base to use when assessing individual account position performance. However, because the CSA is also developing its own proposals with respect to position cost disclosure, IIROC will harmonize its requirements with those of the CSA if it decides to adopt a different basis for cost reporting.

Issues relating to percentage return reporting

We received the following comments regarding the provision of percentage return performance reporting:

50. Calculating and reporting client portfolio returns should be provided more frequently, and the inclusion of returns and relevant benchmarks should be mandated.

IIROC staff response

Although there is a requirement to calculate and report client portfolio returns at least annually, Dealer Members may choose to provide more frequent reporting. We have not mandated that benchmark return information be provided, given that in many cases relevant benchmark return information is unavailable and/or the benchmark information that is available would be misleading. For example, the use of a benchmark may provide no meaningful information or may provide misleading information for complex portfolios, where no relevant reference benchmarks are available, or for simple portfolios containing relatively few securities.

51. Clarification is required that the 1, 3, 5 and 10 year reporting requirements are only mandated on a prospective basis, as the information becomes available.

IIROC staff response

As discussed in the Guidance Note, percentage return information must be provided to all retail clients by the end of the rule implementation transition period, as set out in proposed rule 200.1(f). The percentage return information must be provided on a 1, 3, 5 and 10 year and "since inception" basis, determined prospectively as information becomes available and must be calculated in accordance with a method acceptable to IIROC.

52. We request that an exemption from the account percentage return disclosure requirements be available for order execution service accounts.

IIROC staff response

IIROC's position is that all clients should receive position cost and account activity information to enable them to determine whether they have gained or lost money on the investments in their account(s) and to receive percentage return information to enable them to determine the reasonableness of any gain or loss earned/incurred.

Suggested enhancements to the CRM proposal

53. We received the following comments suggesting enhancements to the CRM proposal:

- It should be mandatory that a Point of Engagement Registrant Disclosure be provided to the client prior to the NAAF being signed.
- IIROC should adopt a principled Client First Model in place of the Client Relationship Model.

IIROC staff response

The Client Relationship Model rules and amendments illustrate IIROC's commitment to protect investors and set high quality regulatory and investment industry standards. IIROC staff will consider these suggestions for future rulemaking projects as we proceed with the enhancements we've developed to date.

Proposals to implement the core principles of the Client Relationship Model**Proposed Amendments – New Rule ~~XX00~~3500 - Relationship disclosure****XX01.3500.1. Objective of relationship disclosure requirements**

- (1) This Rule establishes the minimum industry standards for relationship disclosure to retail clients ~~at the time of opening an account or accounts~~. This Rule does not apply to accounts of institutional clients.

Relationship disclosure is a written communication from the Dealer Member to the client describing:

- the products and services offered by the Dealer Member;
- the nature of the account and the manner in which the account will operate; and
- the responsibilities of the Dealer Member to the client.

Relationship disclosure must be provided to a client at time of opening an account or accounts and when there is a significant change to relationship disclosure information previously provided to a client.

References in this Rule describing the obligations of the Dealer Member in relation to services provided on advisory and managed accounts apply equally to the Approved Persons of the Dealer Member providing services on such accounts.

This Rule should be reviewed in conjunction with:

- Rules 1300.1 and 1300.2 – “Know your client”, suitability and supervision;
- Rules 1300.3 to 1300.21 – Discretionary and managed accounts;
- Rule 2500 – Minimum standards for retail account supervision; and
- Rule 3200 – Minimum requirements for Dealer Members seeking approval under Rule 1300.1(s) for suitability relief for trades not recommended by the Dealer Member.

XX02.3500.2. Definition of account relationship types

- (1) An “advisory account” is an account where the client is responsible for investment decisions but is able to rely on advice given by a registered representative. The registered representative is responsible for the advice given. In providing this advice, the registered representative must meet an appropriate standard of care, provide suitable investment recommendations and provide unbiased investment advice.
- (2) An “order-execution service account” is an account opened in accordance with “order-execution service” requirements set out in Rule 3200.
- (3) A “managed account” is an account as defined in Rule 1300.3.

XX03.3500.3. Form of relationship disclosure

- (1) Dealer Members have the choice of providing customized relationship disclosure to each client, or appropriate standardized relationship disclosure to separate classes of clients.
- (2) Where standardized relationship disclosure is provided to the client the Dealer Member must determine that the disclosure is appropriate for the client. Specifically, the disclosure must accurately describe:
- (a) the account relationship the client has entered into with the Dealer Member; and

- (b) the advisory, suitability and performance reporting service levels the client will receive from with the Dealer Member.
- (3) Where a client has more than one account, combined relationship disclosure information may be provided as long as the Dealer Member determines that the combined disclosure is appropriate for the client in light of the relevant circumstances, including the nature of the various accounts.

XX04.3500.4. Format of relationship disclosure

- (1) The format of the relationship disclosure is not prescribed but:
 - (a) The relationship disclosure must be provided to the client in writing;
 - (b) The relationship disclosure must be written in plain language that communicates the information to the client in a meaningful way; and
 - (c) The relationship disclosure must include all the required content set out in Section ~~XX05.3500.5~~ or, where specific information has otherwise been provided to the client by the Dealer Member, a general description and a reference to the other disclosure materials containing the required information.
- (2) Dealer Members may choose to provide the relationship disclosure as a separate document or to integrate it with other account opening materials.

XX05.3500.5. Content of relationship disclosure

- (1) The relationship disclosure information must be entitled "Relationship Disclosure".
- (2) Subject to subparagraphs (3) and (4), the relationship disclosure must contain the following information:
 - (a) A description of the types of products and services offered by the Dealer Member;
 - (b) A description of the account relationship;
 - (c) A description of the process used by the Dealer Member to assess investment suitability, including:
 - (i) a description of the approach used by the Dealer Member to assess the client's financial situation, investment objectives and time horizon, risk tolerance and investment knowledge and a statement that the client will be provided with a copy of the "know your client" information that is obtained from the client and documented at time of account opening and when there are material changes to the information;
 - (ii) a statement indicating that the Dealer Member will assess the suitability of investments in the client's account whenever:
 - (A) a trade is accepted,
 - (B) a recommendation is made,
 - (C) securities are transferred or deposited into the account,
 - (D) there is a change in the registered ~~representative, investment~~ representative or portfolio manager responsible for the account, or
 - (E) there is a material change to the client's "know your client" information; and

- (iii) a statement indicating whether or not the suitability of the investments held in the account will be reviewed in the case of other triggering events not described in Rule 1300.1(r) and, in particular, in the event of significant market fluctuations;
 - (d) A description of the client account reporting that the Dealer Member will provide, including:
 - (i) a statement indicating when trade confirmations and account statements will be sent to the client;
 - (ii) a description of the Dealer Member's minimum obligations to provide performance information to the client and a statement indicating when account position cost and account activity information will be provided to the client; and
 - (iii) a statement indicating whether or not the provision of account percentage return information will be an option available to the client as part of the account service offering;
 - (e) A statement indicating Dealer Member and Approved Person conflicts of interest and stating that ~~future existing and potential material~~ conflict of interest situations, where not avoided, will be disclosed to the client as they arise;
 - (f) A description of all account service fees and charges the client will or may incur relating to the general operation of the account;
 - (g) A description of all charges the client will or may incur in making, disposing and holding investments by type of investment product;
 - (h) A listing of the account documents required to be provided to the client with respect to the account; and
 - (i) A description of the Dealer Member's complaint handling procedures and a statement that the client will be provided with a copy of an IIROC approved complaint handling process brochure at time of account opening.
- (3) For order-execution service accounts, the Dealer Member does not have to provide the relationship disclosure information required under subparagraph 2(c), provided that disclosure is made in compliance with the requirements in Rule 3200.
- (4) For managed accounts, the required disclosure referred to in subparagraph 2(c)(iii) does not apply and the relationship disclosure provided by the Dealer Member must include a statement that ongoing suitability is provided as part of the managed account services.

XX06.3500.6. Review of relationship disclosure materials

- (1) Pursuant to Rule 1300.2, the relationship disclosure provided to the client must be approved by a partner, director, officer or designated supervisor. This approval must occur regardless of the form the relationship disclosure takes. If the document is a standardized document, the supervisor who approves new accounts must ensure that the correct document is used in each client circumstance. If the relationship disclosure is a customized document for each client, the designated supervisor must approve each document.

XX07.Client3500.7. Audit trail and client acknowledgement of receipt of account related documents requirements

- (1) The Dealer Member must maintain an audit trail to evidence that account related documents required by IIROC Rules have been provided to the client. ~~In addition,~~
- (2) Dealer Members must obtain their clients' acknowledgement of receipt of the "know your client" information ~~form and account relationship disclosure materials~~. A client signature acknowledging receipt is preferred, but not required. If the client's signature is not obtained, ~~some other~~ another acceptable method of documenting the client's acknowledgement of receipt of this information must be used.

Proposals to implement the core principles of the Client Relationship Model

Proposed Amendments – New Rule ~~XX0042~~ - Conflicts of interest

~~XX01-42.1~~ Responsibility to identify conflicts of interest

- (1) Each Dealer Member and, where applicable, Approved Person shall take reasonable steps to identify existing and potential material conflicts of interest between the interests of the Dealer Member or Approved Person and the interests of the client.
- (2) Where an Approved Person becomes aware of an existing or potential material conflict of interest, the existing or potential conflict shall be reported immediately to the Dealer Member.

~~XX02-42.2~~ Approved Person responsibility to address conflicts of interest

- (1) The Approved Person must consider the implications of any existing or potential material conflicts of interest between the Approved Person and the client.
- (2) The Approved Person must address all existing or potential material conflicts of interest between the Approved Person and the client in a fair, equitable and transparent manner, and consistent with the best interests of the client or clients.
- (3) Any existing or potential material conflict of interest between the Approved Person and the client that cannot be addressed in a fair, equitable and transparent manner, and consistent with the best interests of the client or clients, must be avoided.

~~XX03-42.3~~ Dealer Member responsibility to address conflicts of interest

- (1) The Dealer Member must consider the implications of any existing or potential material conflicts of interest between the Dealer Member and the client.
- (2) The Dealer Member must address the existing or potential material conflict of interest in a fair, equitable and transparent manner, and considering the best interests of the client or clients.
- (3) Any existing or potential material conflict of interest between the Dealer Member and the client that cannot be addressed in a fair, equitable and transparent manner, and considering the best interests of the client or clients, must be avoided.
- (4) The Dealer Member must adequately supervise how existing or potential material conflicts of interest between the Approved Person and the client are addressed by its Approved Persons pursuant to section ~~XX02-42.2~~.

~~XX04-42.4~~ Responsibility to disclose conflicts of interest

- (1) ~~Unless a material conflict of interest has been avoided, the~~an existing or potential material conflict of interest must be disclosed to the client in all cases where a reasonable client would expect to be informed:
 - (a) for new clients, prior to opening an account for the client; and
 - (b) for existing clients, either as the conflict of interest occurs or, in the case of a transaction related conflict of interest, prior to entering into the transaction with the client.

~~XX05-42.5~~ Conflicts of interest policies and procedures

- (1) Each Dealer Member shall develop and maintain written policies and procedures to be followed in identifying, avoiding, disclosing and addressing material conflict of interest situations.

Proposals to implement the core principles of the Client Relationship Model

Proposed Amendments – Amended to Rule 1300 - Supervision of accounts

1. Rule 1300 subsections 1300.1(p) through (v) are repealed and replaced as follows:

“Suitability determination required when accepting order

- (p) Subject to Rules 1300.1(t) and 1300.1(su), each Dealer Member shall use due diligence to ensure that the acceptance of any order from a client is suitable for such client based on factors including the client’s current financial situation, investment knowledge, investment objectives and time horizon, risk tolerance and the account or accounts’s current investment portfolio composition and risk level. If the order received from a client is not suitable, the client must, at a minimum, be advised against proceeding with the order.

Suitability determination required when recommendation provided

- (q) Each Dealer Member, when recommending to a client the purchase, sale, exchange or holding of any security, shall use due diligence to ensure that the recommendation is suitable for such client based on factors including the client’s current financial situation, investment knowledge, investment objectives and time horizon, risk tolerance and the account or accounts’s current investment portfolio composition and risk level.

Suitability determination required for account positions held when certain events occur

- (r) Each Dealer Member shall, subject to Rules 1300.1(t) and 1300.1(u), use due diligence to ensure that the positions held in a client’s account or accounts are suitable for such client based on factors including the client’s current financial situation, investment knowledge, investment objectives and time horizon, risk tolerance and the account’s or account(s)’ current investment portfolio composition and risk level whenever one or more of the following trigger events occurs:
- (i) Securities are received into the client’s account by way of deposit or transfer; or
 - (ii) There is a change in the registered ~~representative, investment~~ representative or portfolio manager responsible for the account; or
 - (iii) There has been a material change to the client’s life circumstances or objectives that has resulted in revisions to the client’s “know your client” information as maintained by the Dealer Member.

Suitability of investments in client accounts

- (s) To comply with the requirements under Rules 1300.1(p), 1300.1(q) and 1300.1(r), the Dealer Member must use due diligence to ensure that:
- (i) The suitability of all positions in the client’s account is reviewed whenever a suitability determination is required; and
 - (ii) The client receives appropriate advice in response to the suitability review that has been conducted.

Suitability determination not required

- (t) Each Dealer Member that has applied for and received approval from the Corporation pursuant to Rule 1300.1(v), is not required to comply with ~~Rule~~Rules 1300.1(p), 1300.1(r) and 1300.1(s), when accepting orders from a client where no recommendation is provided, to make a determination that the order is suitable for such client.
- (u) Each Dealer Member that executes a trade on the instructions of another Dealer Member, portfolio manager, investment counsel, limited market dealer, bank, trust company or insurer, pursuant to Section I.B (3) of Rule 2700 is not required to comply with Rule 1300.1(p).

Corporation approval

- (v) The Corporation, in its discretion, shall only grant such approval where the Corporation is satisfied that the Dealer Member will comply with the policies and procedures outlined in Rule 3200. The application for approval shall be accompanied by a copy of the policies and procedures of the Dealer Member. Following

such approval, any material changes in the policies and procedures of the Dealer Member shall promptly be submitted to the Corporation.”

2. References in Rules 1300 and 3200 to subsections 1300.1(p) and 1300.1(t) are amended as follows:
 - (a) References to existing subsection 1300.1(p) are repealed and replaced by references to new subsections 1300.1(p) and 1300.1(r); and
 - (b) References to existing subsection 1300.1(t) are repealed and replaced by references to new subsection 1300.1(v).

Proposals to implement the core principles of the Client Relationship Model

Proposed Amendments — Amended Rule 200.1 – Minimum records

1. Rule 200 is amended by renumbering existing subsections 200.1(d) through (n) as subsections 200.1(g) through (q).
2. Rule 200 is amended by adding new subsections 200.1(d), 200.1(e) and 200.1(f) as follows:
 - “(d) Client account cost reports for all accounts other than those held by institutional clients, itemizing security position cost information as follows:
 - (1) For all new security positions added to the account on or after the latest of:
 - (i) [Date of implementation],
 - (ii) The date the account was opened or
 - (iii) If applicable, the date the account was received in by the Dealer Member as a transferred account,
the original cost of the position.
 - (2) For all existing security positions in the account as of [Date of implementation], the original cost of the position. Where original cost information is unavailable or is known to be inaccurate, Dealer Members may elect to provide market value information as at [Date of implementation], or as at an earlier date (referred to as “point in time market value”) instead of original cost information, provided that it is done for all similar accounts and as at the same date.

Where the account was received in by the Dealer Member as a transferred account, the market value of the positions as at the date the account was received in via transfer (also referred to as “point in time market value”) may be used instead of original cost.

For each security position, the current market value as at the report date shall be provided as a comparison to the cost information. The basis for costing each position (either original cost or point in time market value) must be disclosed.

Client account cost reports shall be sent to clients annually, at a minimum.

- (e) For all accounts other than those held by institutional clients, client account performance information disclosing the annual and cumulative realized and unrealized income and capital gains in the client’s account. This account performance information shall be sent to clients annually, at a minimum.
- (f) For all accounts other than those held by institutional clients, client account performance reports itemizing account annualized compound percentage returns for the net performance of the client’s account.

Account annualized compound percentage return information

Where the account has existed for more than one year, account annualized compound percentage return information shall be provided indicating the account’s net performance for the past one, three, five and ten year periods and for the period since account inception. Where the account has existed for less than one year, account annualized compound percentage return information shall not be provided.

The report containing the annualized compound percentage return information shall also contain:

- (1) A definition of the term “compound percentage return”; and
- (2) A description of the computational method used in determining the annualized compound percentage return information.

The computational method used in determining annualized compound percentage return information shall be a method acceptable to the Corporation. The report containing account annualized compound percentage return information shall be sent to clients annually, at a minimum.”

3. The Guide to Interpretation of Rule 200.1 is amended by renumbering guide items (d) through (n) as guide items (g) through (q).

4. The Guide to Interpretation of Rule 200.1 is amended by adding new guide items (d) through (f) as follows:

“(d) **“Client account cost reports”**

Reports must include all client account security and other investment product positions held by the Dealer Member for the client in nominee name or physically in client name and all other client account positions for which the Dealer Member continues to receive compensation, subject to the exceptions below.

Where, pursuant to Rule 200.1(d)(2), the original cost information is unavailable and the point in time market value amount cannot be reliably measured for an individual position held, the cost information for the position shall be reported as not determinable.

Where the market value for a particular position cannot be reliably measured, the current market value information for the position shall be reported as not determinable. In such instance, a disclosure in the client account cost report shall inform the client that the information is not determinable and why the information is not determinable.

The information provided in the client account cost report may be provided to the client on either a dollar amount or dollar amount per share basis.

The client account cost report may be provided to the client as part of the client account statement, referred to in Rule 100.2(c), or separately.

(e) **“Cumulative account performance information”**

The cumulative account performance information must be determined based on all client account security and other investment product positions held by the Dealer Member for the client in nominee name or physically in client name and all other client account positions for which the Dealer Member continues to receive compensation, subject to the exceptions below.

Where there are one or more positions held in the client account for which the current market value is not determinable, the position(s) shall be considered to have no value in the determination of cumulative account performance. In such instance, a disclosure in the cumulative account performance information shall inform the client that the value of the positions has been set at nil for account performance calculation purposes and why.

~~At the option of the Dealer Member, clients may be provided with~~ Where multiple accounts of the same client have the same investment objectives, clients may be provided with offered the alternative of portfolio level (portfolio level being a consolidation of all account positions and debit/credit money balances of the same client) cumulative account performance information. Where the client consents to this alternative, the Dealer Member would not be required to provide performance information for each of the accounts included in the portfolio level reporting.

At the option of the Dealer Member, clients may instead be provided with cumulative account performance information that delineates advised/non-advised account positions.

The cumulative account performance information may be provided to the client as part of the client account statement, referred to in Rule 100.2(c), or separately.

(f) **“Account annualized compound percentage return information”**

The account annualized compound percentage return information must be determined based on all client security and other investment product positions held by the Dealer Member for the client in nominee name or physically in client name and all other client account positions for which the Dealer Member continues to receive compensation, subject to the exceptions below.

Where there are one or more positions held in the client account for which the current market value is not determinable, the position(s) shall be considered to have no value in the determination of annualized compound percentage returns. In such instance, a disclosure in the annualized compound percentage return information shall inform the client that the value of the position(s) has been set at nil for percentage calculation purposes and why.

At the option of the Dealer Member, clients may be provided with portfolio level (portfolio level being a consolidation of all account positions and debit/credit money balances of the same client) annualized compound percentage return information.

At the option of the Dealer Member, clients may instead be provided with annualized compound percentage return information that delineates advised/non-advised account positions.

Account annualized compound percentage return information may be provided to the client as part of the client account statement, referred to in Rule 100.2(c), or separately.”